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		03/11/2009	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/587,779

Applicant(s)

THELWELL, GORDON

Examiner

Joshua Rodden

Art Unit

3637

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 61-71 and 74-87 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 61-71 and 74-87 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/06)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Paper No(s)/Mail Date _____
- 6) ☐ Other: _____

DETAILED ACTION

Claims 1-60, 72, 73, and 88 have been cancelled.

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "polycarbonate outer sheath" as described in Claim 84, and the "polycarbonate insert member" as described in Claim 85 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 61-71 and 74-87 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claims 61, 64, 65 and 81 are rejected under 35 U.S.C. 112, second paragraph for use of the term "substantial." Such term is considered to be indefinite because the specification lacked some standard for measuring the degree intended. See *Ex parte Oetiker*, 23 USPQ2d 1641 (Bd. Pat. App. & Inter. 1992). See also MPEP 2173.05(b).

For purposes of examination, the following phrases have been construed to mean:

-In Claim 61, a "substantially part cylindrical outer shell" is construed as meaning that the outer shell only needs to have a portion of the outer shell being cylindrical.

-In Claim 64, a "substantially 'C' shaped cross section" is construed as meaning that the outer shell only needs to have a cross-section "similar" to a C-shaped cross section.

-In Claim 65, the "substantially parallel opposing edges" are construed as meaning that the outer shell only needs to have opposing edges "similar" to parallel opposing edges.

-In Claim 81, a "substantially part cylindrical inner surface" is construed to mean that the inner surface only needs to have a portion of the inner surface being cylindrical.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

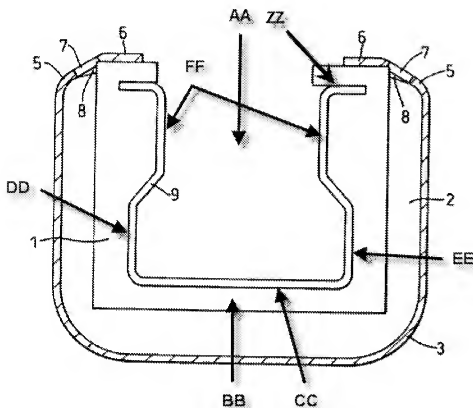
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 61, 63-69, 71, 74, 75-83, 86 and 87 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.K. Patent Application GB 2,321,688 (Ian) in view of U.S. Patent No. 7,182,993 (Hamilton).

Regarding **Claim 61**, **lan** teaches; a column protecting device (3) for protection of an upright column (9) of a racking system, (Figure 3); wherein the column (9) has a channel shaped cross section (AA) having a substantially rectangular front portion (BB) consisting of a front member (CC), and a first (DD) and second (EE) side member, (Annotated Figure 2 Below); the column protector device (3) being "capable of" clipping/clamping onto an upright column via plastic cable ties, (Page 2, Lines 15-21 of the specification); the protector device further comprises a rigid, "substantially part cylindrical "C" shaped cross section" outer shell (2 and 3), and an inner liner (1) shaped to fit within the outer shells (2 and 3), (Figure 2 and Page 3, Lines 3-8 of the specification); wherein the outer shell (2 and 3) is capable of fitting around the upright column so that the outer shell (2 and 3) retains to the column (9) without further fixtures, (Page 4, Lines 10-14); the outer shell (2 and 3) also surrounds the front member (CC) and partially surrounds (does not surround the tips labeled as ZZ) the first (DD) and second (EE) side members, (Annotated Figure 2); the inner liner (1) being retained between the outer shell (2 and 3) and the column (9), (Figure 3); the inner liner (1) comprises a substantially "U" shaped channel (The inner surface of the liner (1) touching the upright column (9)) providing for a flush interface between the inner liner (1) and the upright column (9), (as seen in Figure 2).



Annotated Figure 2

lan does not teach the outer shell and the outer surface of the inner liner (the portion of the inner liner (1) that is in contact with the outer shell (2) in Figure 2) having a substantially part cylindrical shape. However, **Hamilton** teaches a protection device for a support (48), wherein the protection device comprises an inner liner (12/42) having a substantially "U"-shaped inner channel (54) and a substantially part cylindrical outer surface (46) encapsulated within a cylindrical outer liner (76), (Figure 3). Therefore, it would have been obvious to one of ordinary skill in the art to modify the column protector of **lan** to have the outer shell and the outer surface of the inner liner having a substantially part cylindrical shape as taught by **Hamilton** for the purpose of providing a well known user design and shape which is easy to manufacture (cylindrical shape).

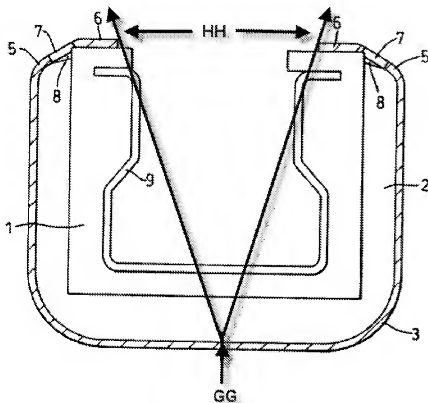
The phrase, "thereby protecting the front and parts of the side members" is considered functional language and is given no patentable weight.

Regarding **Claim 63**, **lan** teaches the device (3) capable of attaching to the front or lateral sides of an aisle facing an upright column wherein the column resides in a channel of the outer shell (2 or 3), (Figure 3 and Page 1, Lines 5-11).

Regarding **Claim 64**, **lan** teaches the outer shell (3) having a substantially "C" shaped cross section, (Figure 2).

Regarding **Claim 65**, **lan** teaches the outer shell (3) comprising a tubular part cylindrical member (3), (Figure 3); wherein the tube has a pair of substantially parallel opposing edges (6) on either side of a gap, (Figure 2). **lan as modified by Hamilton** does not teach the cylindrical member extending over an angle in the range of 260 to 280 degrees, but **lan** does teach a range (HH) about a longitudinal centre line (GG) of the outer shell (3) which is very similar to the claimed range, (Annotated Figure 2 Below). Therefore, the examiner points to case law *In Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), *cert. denied*, 469 U.S. 830, 225 USPQ 232 (1984). The court found that if the only difference between the prior art device and the claims was a recitation of relative dimensions and a device having those claimed dimensions would not perform differently then the prior art device, the claimed device was not patentably distinct from the prior art device (See MPEP 2144). It would have been obvious to one of ordinary skill in the art to modify the prior art device of **lan as modified by Hamilton** to have the cylindrical member extending over an angle in the

range of 260 to 280 degrees for the purpose of user design as it would not cause the device to perform differently.



Annotated Figure 2

Regarding **Claims 66-68, *lan as modified by Hamilton*** teaches the limitations discussed above in addition to teaching various dimensional aspects of the claimed invention. ***lan as modified by Hamilton*** does not teach the exact dimensional aspects as recited in claims 66-68. However, the examiner points to case law *In Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), *cert. denied*, 469 U.S. 830, 225 USPQ 232 (1984). The court found that if the only difference between the prior art device and the claims was a recitation of relative dimensions and a device having those claimed dimensions would not perform differently than the prior art device, the

claimed device was not patentably distinct from the prior art device (See MPEP 2144). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the column protector of **lan as modified by Hamilton** with a height between 30-120cm, or an external diameter of 10-14cm or an outer wall thickness between 7-9mm since the column protector of **lan as modified by Hamilton** would not differently then it would before with its previous dimensions.

Regarding to **Claim 69**, **lan as modified by Hamilton** teaches the limitations as discussed above in addition to **lan** teaching a pair of opposing edges (6) apart from one another at a given distance, (Figure 2). **lan as modified by Hamilton** does not teach that given distance being between 5cm and 11cm. However, the examiner points to case law *In Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), *cert. denied*, 469 U.S. 830, 225 USPQ 232 (1984). The court found that if the only difference between the prior art device and the claims was a recitation of relative dimensions and a device having those claimed dimensions would not perform differently then the prior art device, the claimed device was not patentably distinct from the prior art device (See MPEP 2144). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the distance between the opposing edges of **lan as modified by Hamilton** to be between 5cm and 11cm as this would not affect the functioning of the device of **lan as modified by Hamilton**.

Regarding **Claim 71**, **lan** teaches the outer shell being made from polycarbonate, (Page 2, Line 8). It should be understood that the following materials are all well known in the art as substitutions for polycarbonate: resilient elastomeric polymer based

materials; polyethylene; high density polyethylene; polypropylene; polyvinylchloride; polystyrene; plastic; or a mixture of plastics.

Regarding **Claim 74, lan as modified by Hamilton** teaches the limitations as discussed above, in addition to teaching the inner liner (Figure 1(a) of **lan**) having a U-shaped channel formed with given dimensions. **lan as modified by Hamilton** does not teach those given dimensions being in the range of 2 to 5cm. However, the examiner points to case law *In Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), *cert. denied*, 469 U.S. 830, 225 USPQ 232 (1984). The court found that if the only difference between the prior art device and the claims was a recitation of relative dimensions and a device having those claimed dimensions would not perform differently then the prior art device, the claimed device was not patentably distinct from the prior art device (See MPEP 2144). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the column protector of **lan as modified by Hamilton** with a distance between the outer part cylindrical surface and the outer surface of the U-shaped channel between 2-5cm since the column protector of **lan as modified by Hamilton** would operate equally the same with any desired dimensions.

Regarding **Claim 75, lan** teaches the inner liner (1) being made from a compressive composite material, (Figure 2 and Page 2, Lines 1-7). It should be understood that the following materials are all well known in the art as substitutions for a compressive composite material: polyethylene; polypropylene; polycarbonate;

polyvinylchloride; polystyrene; natural rubber foam; synthetic rubber foam; closed cell SBR foam material.

Regarding **Claims 76 and 77, *lan as modified by Hamilton*** teaches the limitations discussed above in addition to teaching various dimensional aspects of the claimed invention. ***lan as modified by Hamilton*** does not teach the exact dimensional aspects as recited in claims 76 and 77. However, the examiner points to case law *In Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), *cert. denied*, 469 U.S. 830, 225 USPQ 232 (1984). The court found that if the only difference between the prior art device and the claims was a recitation of relative dimensions and a device having those claimed dimensions would not perform differently then the prior art device, the claimed device was not patentably distinct from the prior art device (See MPEP 2144). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the inner liner of ***lan as modified with Hamilton*** with a height between 30-120cm, or an external diameter of 10-14cm since the column protector of ***lan as modified by Hamilton*** would operate the same with any desired dimensions.

Regarding **Claims 78 and 79, *lan as modified by Hamilton*** teaches the limitations as discussed above, in addition to ***lan*** teaching the inner liner (1) being U-shaped and having a given width and depth dimension, (Figures 1(a) and 1(b)). ***lan as modified by Hamilton*** does not teach the exact dimensional aspects of the width and depth dimensions as recited in claims 78 and 79. However, the examiner points to case law *In Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984),

cert. denied, 469 U.S. 830, 225 USPQ 232 (1984). The court found that if the only difference between the prior art device and the claims was a recitation of relative dimensions and a device having those claimed dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device (See MPEP 2144). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide "U" shaped channel of the inner liner of **lan as modified with Hamilton** with width in the range of 7 to 12 cm, or a depth in the range of 2 to 4cm since the column protector of **lan as modified by Hamilton** would operate the same with any desired dimensions.

Regarding **Claim 80**, **lan** teaches the inner liner returning to its original shape after being deformed, (Page 4, Lines 3-8).

Regarding **Claim 81**, **lan** teaches the outer shell (3) surrounding the front member (CC) and partially surrounding (does not surround the tips labeled as ZZ) the first (DD) and second (EE) side members, and also surrounding the inner liner (1), which rests between a substantially part cylindrical inner surface of the outer shell (3) and an outer face of the front member (CC), an outer face of the first side member (DD) and second side members (EE), (Annotated Figure 2 Above).

The phrase, "thereby protecting the front member and parts of the side members from direct impact and partially surrounds each of the first and second side members," is considered intended use and is given no patentable weight.

Regarding **Claim 82**, **lan** teaches the inner liner and outer shell being slideable with respect to each other along a central axis of the outer shell, (Page 1, Lines 24-28).

Regarding **Claim 83**, **lan** teaches an outer liner and an inner liner being bonded together, (Page 2, Lines 1-5). Additionally, **lan** teaches the inner liner and outer shell being bonded together using plastic cable ties, (Page 4, Lines 16-20).

Regarding **Claim 86**, **lan** teaches the outer shell and the inner liner composed of polycarbonate and foam, (Page 2, Line 8 and Page 2, Lines 6-7); both materials having greater ductility, and impact resilience then the shelving which is made from metal, (Page 1, Lines 12-14).

Regarding **Claim 87**, **lan** teaches the device being "capable of" fitting around the upright column so that the outer shell (3) retains to the column (9) without further fixtures, (Page 4, Lines 10-15).

8. Claim 62 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.K. Patent Application GB 2,321,688 (lan) in view of U.S. Patent No. 7,182,993 (Hamilton), and further in view of U.S. 5,482,238 (Kreiter).

Regarding **Claim 62**, **lan** teaches each first and second side member comprising an outer side member (DD and EE) and an inner side member (FF), wherein the outer shell (3) surrounds the front member (CC) and partially surrounds (does not surround the tips labeled as ZZ) the first (DD) and second (EE) side members, (Annotated Figure 2 Above); and the exposed edges (the outer edges of the entire shell (3)) of the outer shell (3) are adjacent to the column where the column is relatively narrower, (Annotated Figure 2).

Claim 62 does not clearly define what the "exposed edges" of the outer shell constitute and therefore it is assumed that the exposed edges of the outer shell can be the outer surfaces of the outer shell (an example is the actual top of outer shell (3) as seen in Annotated Figure 3 of *Ian* below).

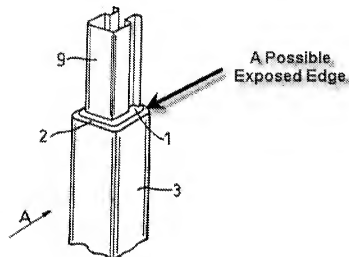
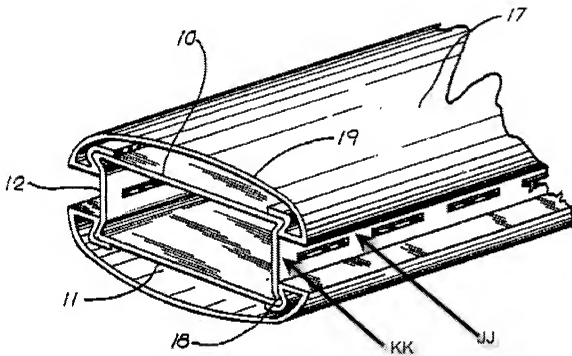


Fig. 3

In regards to **Claim 62**, it is assumed that the applicant is attempting to say that the exposed vertical edges of the outer shell lay adjacent to the column where the column is relatively narrower. Therefore, it should be understood that U.S. Patent No. 5,482,238 (**Kreiter**) teaches a cylindrical shell (17) covering a support (12), wherein the exposed vertical edges (JJ) of the cylindrical shell (17) lie adjacent to the sides of the column (12) where the column is relatively narrower (KK), (Annotated Figure 6 Below). Therefore, it would have been obvious to modify *Ian* as modified by **Hamilton** to have the exposed vertical edges of the outer shell lay adjacent to the column where the column is relatively narrower as taught by **Kreiter** as it would have been obvious to try

for the purpose of adhering to a specific/well known user design (See Case Law *KSR*, 550 U.S. at ___, 82 USPQ2d at 1396, Reasoning (E) "Obvious to try" – choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success, See MPEP 2141).

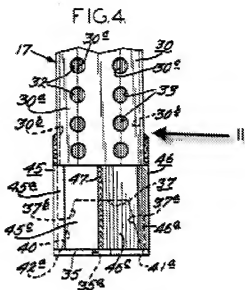


Annotated Figure 6 (Kreiter)

9. Claim 70 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.K. Patent Application GB 2,321,688 A (Ian) in view of U.S. Patent No. 7,182,993 (Hamilton), and further in view of U.S. Patent No. 4,088,229 (Jacoby et al.).

Regarding Claim 70, Ian as modified by Hamilton teaches the limitations discussed above, but does not teach the outer shell having a chamfered edge.

However, **Jacoby et al.** teaches a shell of a protector having a chamfered edge (II) between its outer and inner surface, (Annotated Figure 4 Below). Therefore, it would have been obvious to one of ordinary skill in the art to modify **Ian as modified by Hamilton** to have the outer shell with chamfered edges as taught by **Jacoby et al.** for the purpose of user efficiency and improved protection of the upright column.



Annotated Figure 4.

10. Claim 84 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.K. Patent Application GB 2,321,688 A (**Ian**) in view of U.S. Patent No. 7,182,993 (**Hamilton**), and further in view of U.S. Patent No. Re 32,406 E (**Molari, Jr.**)

Regarding **Claim 84**, **Ian as modified by Hamilton** teaches the limitations as discussed above, but does not teach an polycarbonate outer sheath on the outer shell. However, **Molari, Jr.** teaches of layers of polycarbonate for impact protection, (Column 1, Lines 18-29). Therefore, it would have been obvious to one of ordinary skill in the art

to modify **lan as modified by Hamilton** to have an additional polycarbonate sheath as taught by **Molari, Jr.** for the purpose of added protection. Furthermore, it is an inherent property of carbonate to crack under a given amount of force.

11. Claim 85 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.K. Patent Application GB 2,321,688 A (lan) in view of U.S. Patent No. 7,182,993 (Hamilton), and further in view of U.S. Patent No. 5,746,622 (Consoli et al.).

Regarding **Claim 85, lan as modified by Hamilton** teaches the limitations as discussed above, but does not teach a polycarbonate insert. However, **Consoli et al.** teaches a polycarbonate insert (150) which is "capable of" being inserted between the inner liner (as it is collapsible foam) and the front face of a column, which is capable of being removed and re-inserted for visual inspection without removing the outer or inner liners, (Figure 3 and Column 4, Lines 1-15). Therefore, it would have been obvious to one of ordinary skill in the art to modify **lan as modified by Hamilton** to have a polycarbonate insert as taught by **Consoli et al.** for the purpose of efficiently testing the device.

It should be understood that the use of "capable of" is the same as "adapted for" in that the prior art device needs to only be "capable of" performing the recited function. It should be understood then that Claim 85 only positively cites the existence of a polycarbonate insert, and a use of which it must be "capable of" performing.

Response to Arguments

12. Applicant's arguments filed 07/10/08 have been fully considered but they are not persuasive.

Applicant argues that the courts have determined that the term "substantially" is not indefinite. However, The MPEP states that the term "substantially" is indefinite. See *Ex parte Oetiker*, 23 USPQ2d 1641 (Bd. Pat. App. & Inter. 1992). See also MPEP 2173.05(b).

Applicant also argues that the addition of the following limitation makes the claims allowable:

-*"in a self attaching manner without the need for additional fixings."*

However, as described in the rejection of Claim 61 above, Ian teaches wherein the outer shell (2 and 3) is capable of fitting around the upright column so that the outer shell (2 and 3) retains to the column (9) without further fixtures, (Page 4, Lines 10-14). Specifically, Ian states:

"The shell (3) is then loosely fitted around the upright 9 above the linings 1 and 2. The distance between the outer edge portions 6, the geometry of the shell and the upright, and the ability of the sides of the shell to be spread slightly means that the shell can be sprung over and loosely embrace the upright."

The shell is clearly taught as being able to "embrace" the "upright" and therefore, meeting the limitation of "in a self attaching manner without the need for additional fixings."

Applicant also argues that the addition of the following limitation makes claim 62 allowable:

-“the outer shell partially surrounds the first and second inner side members so that the exposed edges of the outer shell lay adjacent to the sides of the column at a position where the column is relatively narrower.”

However, Claim 62 does not clearly define what the “exposed edges” of the outer shell constitute and therefore it is assumed that the exposed edges of the outer shell can be the outer surfaces of the outer shell (an example is the actual top of outer shell (3) as seen in Annotated Figure 3 of IAN below).

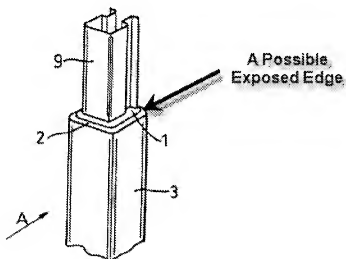


Fig. 3

Additionally, with regards to the argued limitation of Claim 62, a new rejection has been added under U.S. 5,482,238 (Kreiter) in the rejections as detailed above.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 2,166,798 (Cote), No. 5,369,925 (Vargo), No. 6,672,017 (Larson), and U.S. Patent application publication No. 2001/0047975 (Lazas et al.).

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Josh Rodden whose telephone number is (571) 270-5222. The examiner can normally be reached on M-Th 7am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Joshua Rodden/

Examiner, Art Unit 3637

/Lanna Mai/

Supervisory Patent Examiner, Art Unit 3637